

Applicants : Vadiraja Murthy and Edward R. Burns
Serial No. : 08/746,635
Filed : November 13, 1996
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Please cancel Claims 21-23 without prejudice to applicants' right to pursue prosecution of these claims in a later-filed continuation application.

REMARKS

Claims 20-23 were pending in the subject application. By this Amendment applicants have amended Claim 20 to better define applicants' invention, and have canceled Claims 21-23 without prejudice to applicants' right to pursue prosecution of these claims in a later-filed continuation application.

The amendments to Claim 20 are supported by the application as originally filed. In this regard, "suspected of having erythrocyte hemolysis" is supported at page 10, lines 28 and 29, "determining the level" is supported by original Claim 15 at lines 14 and 15, and "activity" is supported at page 11, lines 15-17. The claim language "at least 20 U/L" is supported by Table 1 which represents a summary of the levels of hemoglobin and total adenylate kinase activity in multiple serum samples taken from patients suspected of having hemolysis, and Figure 3 correlates the levels of erythrocyte adenylate kinase activity and hemoglobin. As shown in Figure 3, about 0.1 g/dL hemoglobin (i.e. 1 g/L hemoglobin) corresponds to about 20 U/L erythrocyte adenylate kinase activity (see page 11, lines 22-28). When Figure 3 is correlated to the results in Table 1, hemolysis in the serum samples from patients corresponds to at least 20 U/L erythrocyte adenylate kinase activity. For these reasons, the amendments to Claim 20 are supported by the application as originally filed.

The amendments place the application in condition for allowance or better form for appeal. Accordingly, entry of the amendments is respectfully requested.

35 U.S.C. §103 Rejections

Claim 20 was rejected under 35 U.S.C. §103 as unpatentable over Olsson. Claims 21-23 were rejected under 35 U.S.C. §103 as unpatentable over Olsson in view of

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Tsuji, Friedrich and Buth. The rejections to Claims 21-23 should be moot since these claims have been canceled. Accordingly, the only pending rejection is to Claim 20 under 35 U.S.C. §103 as unpatentable over Olsson. Applicants respectfully submit that Claim 20 as amended is patentable over Olsson.

Olsson detected elevated levels of hemoglobin and adenylate kinase in plasma samples subjected to various periods of storage. Although Olsson found a correlation between the amount of accumulated hemoglobin and adenylate kinase in plasma samples following storage, Olsson did not teach or suggest the level of erythrocyte adenylate kinase activity indicative of *in vivo* hemolysis, as required by Claim 20. For these reasons, applicants submit that the claimed invention is patentable over Olsson. Accordingly, reconsideration and withdrawal of this rejection, and allowance of Claim 20, are respectfully requested.

No fee is deemed necessary in connection with the filing of this Amendment. If any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785.

Respectfully Submitted,

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